IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BERTHA CORRALES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No.**
	)	
STARWOOD HOTELS & RESORTS WORLDWIDE, LLC d/b/a The Westin Lombard Yorktown Center Hotel,	)	
	)	
Defendant.	)	

COMPLAINT

NOW COMES, the Plaintiff, Bertha Corrales (hereinafter referred to as "Plaintiff" or "Corrales"), by and through her attorneys, Anthony J. Peraica & Associates, Ltd., and for her Complaint against the Defendant, Starwood Hotels & Resorts Worldwide, LLC d/b/a The Westin Lombard Yorktown Center Hotel (hereinafter referred to as "Defendant"), alleges and states as follows:

Nature of Claims

1. Plaintiff brings this action to remedy discrimination in violation of the American with Disabilities Act of 1990, 42 U.S.C. §12101, et seq. ("ADA") and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq. ("Title VII"). Plaintiff seeks legal and equitable relief, including, but not limited to, placement in previously held position, adjustment of seniority records, lost pay and benefits, compensatory and punitive damages, interest, and attorney's fees.

Jurisdiction and Venue

2. Jurisdiction of this Court is invoked pursuant to federal question jurisdiction, 28 U.S.C. §1331. Venue is proper in this District pursuant to 28 U.S.C. §1391.

3. The actions alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

Parties

4. Plaintiff is a Hispanic female citizen of the United States and currently is a resident of Berwyn, Illinois.

5. Defendant Westin Hotels & Resorts d/b/a The Westin Lombard Yorktown Center is an associated name wholly owned by Defendant, Starwood Hotels & Resorts Worldwide, LLC, that is in turn owned by Defendant Merriott International, Inc.

6. Plaintiff was directly employed by Starwood Hotels & Resorts Worldwide, LLC, which is licensed by the Illinois Secretary of State to conduct business in Lombard, DuPage, Illinois. However, they operate The Westin Lombard Yorktown Center located at 70 Yorktown Shopping Center, Lombard, IL 60148.

7. At all times relevant, the Defendants have continuously been a corporation doing business in the State of Illinois and have continuously employed in excess of 15 employees.

8. Plaintiff was at all relevant times employed by the Defendants and worked for the Defendants in the State of Illinois under their authority and control.

Procedural Requirements

9. Plaintiff has fulfilled all conditions precedent to the institution of this action. Plaintiff timely filed a Charge of Discrimination against Defendants with the United States Equal Employment Opportunity Commission (“EEOC”) and/or the Illinois Department of Human Rights (“IDHR”) and has received a Right to Sue letter. Exhibits A (complaint) and B (Right to Sue).

Factual Background

10. Plaintiff began her employment with the Defendants in 2008.

11. At all relevant times throughout the course of her employment, Plaintiff performed her job, as a housekeeper, to the satisfaction of her employer.

12. Plaintiff is regarded by her fellow employees as a skilled and hardworking employee.

13. Plaintiff's initial and most recently held position with the Defendant, at the time of discharge, was as a housekeeper employed by the Defendants at 70 Yorktown Shopping Center, Lombard, IL 60148.

14. On or about October 25, 2014, while Plaintiff was working, she was attacked in the elevator by a guest of the hotel.

15. As a result of the attack, Plaintiff sustained injuries to her elbow, knee and Plaintiff has been diagnosed with post-traumatic stress disorder, anxiety and depression.

16. Plaintiff was off of work for 3 days and then intermittently due to her injuries.

17. On October 27, 2014 Plaintiff returned to work but had some difficulties.

18. On or about October 30, 2014, Plaintiff's medical provider issued restrictions on Plaintiff's ability to work. Plaintiff's limitations included not to carry, push or pull anything over 10 pounds.

19. On or about June 16, 2015, Plaintiff underwent knee surgery for injuries related to the 2014 assault.

20. Upon her return to work, Plaintiff was assigned light duty in the laundry room folding towels and vacuuming floors. She also stacked coffee, creamers, sugar, cups, paper products, notebooks, pens, and ice bags.

21. Plaintiff was taken off of light duty by her manager in July 2016 and assigned

housekeeping duties in 10 rooms.

22. Defendants' HR manager removed Plaintiff completely from light duty on July 6, 2016, despite Plaintiff's surgeon not lifting her restrictions.

23. On July 8, 2016, plaintiff was assigned housekeeping duties for 17 rooms but after completing 10 rooms plaintiff was unable to complete the rest because her arms and legs became swollen.

24. On or about July 9, 2016, Plaintiff was constructively discharged from her employment with the Defendants and told to come back only when all medical restrictions were lifted.

25. Upon information and belief, prior to July 9, 2016, Plaintiff had not received any warnings or discipline related to her work.

26. Defendants had no meetings or discussions with the Plaintiff regarding accommodations or safety concerns related to her disabilities.

27. Defendant did not establish that Plaintiff is a direct threat to the safety of herself or others.

28. Defendants did not discuss or establish that Plaintiff is unable to perform her normal duties with or without reasonable accommodations.

29. Defendant made no assessment of objective, factual, or medical evidence with respect to Plaintiff's condition.

30. Plaintiff pursued a worker's compensation action for the injuries she sustained.

COUNT I – VIOLATION OF ADA

31. Plaintiff re-alleges paragraphs 1 through 30 of the previous sections of the Complaint as Paragraph 31 of this Count I.

32. Based on information and belief, Plaintiff was selected for termination based on her disabilities.

33. Based on information and belief, Plaintiff was constructively discharged wrongfully from employment with the Defendants based on her disabilities.

34. Based on information and belief, Plaintiff's wrongful termination constituted and was the result of discrimination based upon disability by the Defendant, in violation of the ADA.

35. Plaintiff has exhausted her administrative remedies, by filing an underlying Charge of Discrimination with the EEOC/IDHR on the basis of disability discrimination and national origin discrimination, whereupon the IDHR issued a right to sue letter.

36. The Defendant's wrongful termination of the Plaintiff's employment caused Plaintiff to suffer a loss of wages and other compensation.

37. The Defendant's wrongful termination of the Plaintiff's employment caused Plaintiff to suffer great mental anguish, humiliation, anxiety, and other emotional and psychological distress.

38. Plaintiff is entitled to the recovery of compensatory and punitive damages.

WHEREFORE, Plaintiff asks that judgment be entered against Defendant as follows:

A) Ordering the Defendant to immediately reinstate Plaintiff to her formerly held position with the Defendants that is commensurate with her skills and experience, and to treat Plaintiff's employment as having been continuous as of the date Plaintiff was initially employed by the Defendant;

B) Ordering the Defendant to accommodate Plaintiff's disabilities by limiting the number of floors she has to service and providing her with single bed rooms rather than double bed rooms;

C) Ordering the Defendant to pay to Plaintiff the wages and other compensation lost, along with interest;

D) Ordering the Defendant to pay to Plaintiff the compensatory and punitive damages incurred as a result of its acts of discrimination;

E) Ordering the Defendant to pay to Plaintiff the attorneys' fees, court costs, and disbursements which Plaintiff has incurred and will incur as a result of Defendant's willful conduct; and

F) Awarding to Plaintiff such other relief as this Court deems proper and just.

COUNT II – VIOLATION OF TITLE VII
(Retaliation)

39. Plaintiff re-alleges Paragraphs 1-38 of the previous sections as Paragraph 39 of this Count II.

40. At all times throughout the course of employment, Plaintiff was qualified for her position and performed her job to the legitimate expectation of her employer and beyond.

41. Based on information and belief, Plaintiff was constructively discharged from her employment in retaliation for pursuing her Workers' Compensation Claim against the Defendant for the assault on October 25, 2014.

42. Plaintiff's filing of a workers' compensation claim resulted in harassment, differing terms and conditions of employment, and not being allowed to work with restrictions or an accommodation.

43. Defendant's wrongful acts, individually and/or by and through their agents, were intentional, willful and wanton, and in total disregard and reckless indifference to Plaintiff's rights.

44. Plaintiff has exhausted her administrative remedies by filing a Charge of Discrimination, whereupon the EEOC issued a right to sue letter.

45. As a direct and proximate result of the Defendant's actions, Plaintiff suffered severe financial damages, including but not limited to loss of wages, past and future, loss of benefits, past and future, loss of career opportunities, loss of future earnings and other incidentals and benefits of employment, damage to reputation, other compensatory damages, attorneys' fees, court costs, and other damages allowable under Title VII.

46. The Defendant's actions caused Plaintiff great mental anguish, humiliation, anxiety, loss of sleep, and other emotional and psychological distress.

47. The Defendant's actions were willful, wanton, malicious and oppressive and justify the awarding of exemplary, liquidated and/or punitive damages.

48. Plaintiff is entitled to the recovery of compensatory damages.

82. An award of punitive damages is appropriate and necessary to deter Defendant from committing similar acts of retaliation in the future.

WHEREFORE, Plaintiff asks that judgment be entered against Defendant as follows:

A. Ordering the Defendant to immediately reinstate Plaintiff to a position with Defendant that is commensurate with her skills and experience and with accommodations;

B. Ordering the Defendant to pay to Plaintiff damages for loss of wages, past and future, loss of benefits, past and future, loss of career opportunities, loss of future earnings and other incidentals and benefits of employment, damage to reputation, and other compensatory damages resulting from Defendant's wrongful acts, along with interest;

C. Ordering the Defendant to pay to Plaintiff the compensatory damages incurred as a result of its wrongful acts;

D. Ordering the Defendant to pay to Plaintiff punitive damages;

E. Ordering the Defendant to pay to Plaintiff the attorneys' fees, court costs, and disbursements which Plaintiff has incurred and will incur as a result of Defendant's wrongful and willful conduct; and

F. Awarding to Plaintiff such other relief as this Court deems proper.

Respectfully Submitted,

By: /s Anthony J. Peraica

Anthony J. Peraica, ARDC #6186661
Attorney for the Plaintiff
Anthony J. Peraica & Associates, Ltd.
5130 S. Archer Avenue
Chicago, Illinois 60632
(773) 735-1700
PeraicaLaw@aol.com